

REMARKS

This amendment is in response to the Office Action mailed on December 15, 2003, in which claims 25, 26, 30, 36-38, and 45 were rejected and claims 27-29, 31, and 41 were indicated as being allowable. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

1. Objection to the Abstract

In section 1 of the Office Action, the Examiner objected to the Abstract and noted that all "means" clauses should be removed. Applicants have amended the Abstract in accordance with the Examiner's suggestion and therefore request that the objection to the Abstract be withdrawn.

2. Rejection of Claims 25, 26, 30 and 35 under 35 U.S.C. §102(b) as Anticipated by Föhl.

In section 3 of the Office Action, the Examiner rejected claims 25, 26, 30, and 45 under 35 U.S.C. §102(b) as anticipated by Föhl, U.S. Patent No. 5,882,071 ("the '071 patent"). With this reply, Applicants respectfully traverse the rejection based upon the arguments set forth below.

Claim 25 recites, among other elements, "immobilization means for retention of the upper back part in the normal use position ... the immobilization means comprising a lever system" (emphasis added). In section 7 of the present Office Action, the Examiner states, in response to Applicants' earlier arguments that the '071 patent does not disclose an immobilization means, "See Figure 2 of Föhl ('071) for the teaching that the shear pin 18 immobilizes the upper seat back part 12 in the normal position." Applicants respectfully assert that if the "shear pin 18" is the "immobilization means," then the element of an immobilization means comprising a lever system is not identically disclosed in the '071 patent because the "lever" recited by the Examiner (lever 22) is a separate element from and does not cooperate in performing the function of the "shear pin 18." Accordingly, the '071 patent does not identically disclose each of the elements of independent claim 25 so

independent claim 25 is not anticipated under 35 U.S.C. §102(b) and is presented along with dependent claims 26, 30, and 45 for reconsideration and allowance.

3. Rejection of Claims 36-38 Under 35 U.S.C. §103(a) as Unpatentable Over Föhl ('071) in view of Föhl ('750).

In section 5 of the Office Action, the Examiner rejected claims 36-38 under 35 U.S.C. §103(a) as unpatentable over Föhl (the '071 patent) in view of U.S. Patent No. 5,934,750 to Föhl ("the '750 patent"). Applicants have converted claim 36 to independent format and respectfully traverse the Examiner's rejection as set forth below.

Independent claim 36, in addition to each of the elements recited in independent claim 25, further recites "a pawl," a "counterbearing," and a "pivotable mounted immobilization lever." Claim 36 further recites that the "immobilization lever ... engages into the pawl" in a locked position and "releases the pawl" in a release position. The Examiner indicates that the '071 patent "lacks a pawl" as part of a lever system. While the '750 patent discloses a "pawl lever 30," Applicants respectfully assert that the '750 patent does not disclose a "pivotably mounted immobilization lever that in a locked position engages into the pawl" as recited in claim 36. In contrast, referring to FIG. 6 of the '750 patent, the pawl 30 engages ratchet member 32 (indicated by the Examiner to correspond to the "counterbearing" of claim 25) but does not appear to have an additional element that engages the pawl in a locked position and releases the pawl in a release position as recited in claim 36. The '750 patent discloses a "spring 34" that appears to continuously bias the pawl 30 into the ratchet 32 as described in col. 4, lines 43-44. Accordingly, in addition to the reasons recited for the patentability of claim 36 in the previous amendment filed by Applicants, Applicants respectfully assert that independent claim 36 and corresponding dependent claims 37 and 38 are further allowable over the combination of the '071 patent and the '750 patent.

4. Allowable Subject Matter

In section 6 of the Office Action, the Examiner indicated that claims 27-29, 31 and 41 are allowable. In response, Applicants have converted claims 27, 31 and 41 into independent format. Claims 28 and 29 depend from new independent claim 27. The conversation of

claims 27, 31 and 41 into independent format is not a narrowing amendment, because each of the limitations of the converted claims were originally part of the dependent claims. See 35 U.S.C. §112 paragraph 4. Further, the conversion into independent format is not in response to a rejection related to patentability because the Examiner has indicated that the dependent claims are allowable over the cited art. Applicants respectfully request allowance of claims 27-29, 31 and 41.

Conclusion

Claims 25-38 and 40-46 are pending in the present application. Claims 32-35, 40, 42-44, and 46 are withdrawn. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application, as amended, is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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